



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,473	02/28/2002	Andreas F. Kotowski	RAPI-011	2361

7590

09/16/2003

David B. Ritchie
THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640

EXAMINER

NGUYEN, MINH T

ART UNIT PAPER NUMBER

2816

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,473

Applicant(s)

KOTOWSKI ET AL.

Examiner

Minh Nguyen

Art Unit

2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. References S, AN, AO, BZ are not considered because no publication dates are provided.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it uses words which can be implied, i.e., "The present invention provides". Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities: the summary of invention should follow the guidelines in MPEP manual and *should not be the same as the abstract*. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent No. 5,260,982, issued to Fujii et al.

As per claim 15, Fujii discloses an apparatus (Fig. 5) to detect concealed items on or in an object (see the abstract), comprising:

an x-ray source and a scanner (these elements are standard features), the x-ray source to produce a pencil beam (column 4, line 42) to an object (23, located on the upper belt of the conveyor 22);

a detector (42) to detect x-rays scattered (column 4, lines 36-48) as a result of interacting with the object (23) and a low Z material panel (the upper belt 22, the upper belt is seen as a low Z material, see its characteristics described in column 4, lines 1-6), also as shown, the object 23 is clearly located between the detector (42) and the panel (upper belt 22).

As per claim 16, the CPU 29 shown in Fig. 2.

As per claim 17, the display unit 30 shown in Fig. 2.

As per claim 1, this claim is merely a method to operate the apparatus noted in claim 15, since Fujii teaches the apparatus, he inherently teaches the method to operate.

As per claims 2-3, rejected for the same reasons noted in claims 16-17, respectively.

Art Unit: 2816

As per claim 14, same rejection as claim 1.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-13 and 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,260,982, issued to Fujii et al.

As per claim 18, Fujii discloses the apparatus as discussed in claim 15 but he does not explicitly disclose the low Z material is made of polyethylene as called for in the claim.

However, as ruled by the court, when the structure of the apparatus (overall conditions) ^{is met} ~~is met~~, changing the material (the low Z material) from one to another to obtain the optimum condition is not patentable since the practice can be done by an average person skilled in the art.

It would have been obvious to one skilled in the art at the time of the invention was made to modify the Fujii upper belt using a certain material such as polyethylene for the motivation to obtain optimum images shown in the display when the Fujii apparatus is used to detect a certain, known Z object.

As per claims 19-20, these claims are rejected for the same reasons and motivations as discussed in claim 18.

As per claim 21, Fujii does not explicitly disclose a radiation shield as called for in the claim. However, this limitation is seen as obvious by a person skilled in the art at the time of the

Art Unit: 2816

invention was made since human beings[✓] are known for being harmed when exposed to x-ray beams, i.e., the apparatus needs radiation shields for safety purpose.

As per claims 22-25, materials such as steel, lead used as absorbing materials for radiation shield and the selection of the thickness of the materials are well-known in the art.

As per claim 26-27, adjusting the positions of the low Z material panels to obtain the optimum images is seen as an obvious adjusting for the same motivation discussed in claim 18.

As per claims 4-13, same rejections as claims 18-27.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Nguyen whose telephone number is 703-306-9179. The examiner can normally be reached on Monday, Tuesday, Thursday, Friday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on 703-308-4876. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



9/5/03

Minh Nguyen
Primary Examiner
Art Unit 2816